

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.86.2207, 37.86.2230, and) PROPOSED AMENDMENT
37.86.5110 pertaining to Medicaid)
school-based health services)

TO: All Concerned Persons

1. On November 12, 2008, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room of the Colonial Building, at 2401 Colonial Drive, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on November 3, 2008, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-1970; or e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.86.2207 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), REIMBURSEMENT (1) Reimbursement for an EPSDT service, except as otherwise provided in this rule, is the lowest of the following:

(a) through (c) remain the same.

(d) for public agencies, cost based reimbursement as determined in accordance with OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments as established and approved by the department. The department adopts and incorporates by reference the OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, as further amended ~~August 29, 1997~~ May 14, 2004. A copy of OMB Circular A-87 may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) through (10) remain the same.

(11) Reimbursements for school-based health related services are specified in the School-Based Health Service Fee Schedule dated October ~~2007~~ 2008, which is adopted and incorporated by reference. A copy of the ~~sSchool-bBased hHealth sService fFee sSchedule~~ is posted at <http://medicaidprovider.hhs.mt.gov>. Rates are

adjusted to reimburse these services at the federal matching assistance percentage (FMAP) rate.

(12) and (13) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.2230 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), SCHOOL-BASED HEALTH RELATED SERVICES (1) through (4) remain the same.

(5) All health related services billed to Medicaid must have PASSPORT approval with the exception of mental health related services and school-based health services.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.86.5110 PASSPORT TO HEALTH PROGRAM: SERVICES (1) An enrollee must obtain the services in (1)(a), except as provided in (1)(b), directly from or through authorization by the enrollee's primary care provider:

(a) through (a)(xvii) remain the same.

(b) aspects of services listed in (1)(a) that do not require prior authorization by the enrollee's primary care provider:

(i) through (ix) remain the same.

(x) testing for lead blood levels; and

(xi) dental, vision, and hearing services portion of the screening services for children; and

(xii) school-based health services.

(2) The primary care provider's authorization is not required for any of the following ~~m~~Medicaid services:

(a) through (x) remain the same.

(y) case management services as defined in ARM ~~37.86.3305 et seq.~~ Title 37, chapter 86, subchapter 33;

(z) through (4) remain the same.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-116, MCA

4. The Department of Public Health and Human Services (department) is proposing amendments to ARM 37.86.2207, 37.86.2230, and 37.86.5110, pertaining to Medicaid school-based services. The proposed rule changes are necessary to eliminate the requirement for Passport approval of school-based health services and to update the fee schedule effective October 1, 2008.

ARM 37.86.2207

The proposed change to ARM 37.86.2207 would implement changes in federal financial participation and a 1.67% across-the-board increase in reimbursement applied to the School-Based Health Service Fee Schedule. Medicaid fees for school-based services are set according to the resource based relative value scale (RBRVS) fees as defined in ARM 37.85.212.

The proposed October 1, 2008 effective date would reflect the change in the Federal Matching Assistance Percentage (FMAP) rate. The FMAP changes each October. On October 1, 2008 the FMAP rate will be reduced slightly from 68.53% to 68.04%. Medicaid fees for the Comprehensive School and Community Treatment (CSCT) would also be increased to reflect the Office of Public Instruction (OPI) budgeted inflationary factor of 3%. Overall, the changes would result in an increase in all reimbursement fees applicable to CSCT services.

Funding for CSCT services is provided by the OPI match and FMAP. The department could have allocated the increased funding unequally among the providers. This alternative would have required development of a new reimbursement formula and new cost determinations. It would have made reimbursement for school-based services inconsistent with RBRVS methodology. Instead, the department chose to increase all rates to compensate, in part, for inflation.

ARM 37.86.2230 and 37.86.5510

The department proposes amendments to these two rules to eliminate the Passport approval requirements for a school-based provider. The department's experience has shown Passport approval unnecessary for services provided by such providers.

A school-based provider is currently required to contact the Medicaid recipient's primary care physician (PCP) to authorize services to the client. Typically, school-based services are approved by the client's Individual Education Plan (IEP) team. This team consists of the client's parent or guardian, teacher, counselor, and a licensed therapist. Considering the fact that school-based treatment plans are developed through an IEP team approach, the department recommends removing the Passport approval requirement. Since this proposal would eliminate an unnecessary step in the delivery of services, the department did not consider other options.

Financial effects

The proposed Medicaid school-based services rate increase for state fiscal year (SFY) 2009 is expected to result in additional expenditures for those services totaling \$604,749 above SFY 2008 figures. Of this, \$193,278 would be from a state education match and \$411,471 federal special revenue derived from federal financial participation.

Number of persons affected

MAR Notice No. 37-454

There are about 47,500 school-aged Medicaid recipients eligible for services and about 175 school-based service providers that could be affected by the proposed amendments.

5. The department intends to apply these rule amendments upon adoption retroactive to October 1, 2008. Medicaid recipients and school-based service providers will experience no detrimental effects from the rule amendments.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-1970; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 20, 2008.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct the hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ John Koch
Rule Reviewer

/s/ Joan Miles
Joan Miles, Director
Public Health and Human Services

Certified to the Secretary of State October 14, 2008.